

Missouri's Law Enforcement Guidelines on Juvenile Custody Issues

PURPOSE OF THE MANUAL

This manual is designed to offer a general set of guidelines for handling juveniles taken into custody by law enforcement officers in Missouri. These guidelines are based upon Federal Regulations, Missouri State Statutes and Missouri Supreme Court Rules.

Each, section of this manual provides a brief summary of the Federal Regulations, State Laws, and State Supreme Court Rules applicable to the topic covered in the particular section. These summaries highlight the general effect of the regulation, law or rule. For the complete text when necessary, you will need to refer to the actual regulation, law or rule, which can be obtained at www.moga.state.mo.us.

Many local Juvenile and Family courts have additional procedures, which may be more specific than what is contained in this manual. The appropriate law enforcement agency representative should review this manual with a juvenile court representative to determine whether any additional procedures should be added to the manual to reflect local court requirements.

If you have questions regarding the handling of juveniles taken into custody, you may contact your local juvenile court representative for assistance, or you may contact Marlo Ellington, Compliance Monitor, Missouri Juvenile Justice Association, at (573) 636-6101.

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- ❖ Missouri Juvenile Justice Association
- ❖ Office of State Courts Administrator
- ❖ Cape Girardeau Police Department
- ❖ Department of Revenue
- ❖ Office of Juvenile Justice and Delinquency Prevention

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Since 1975, Missouri has participated in the Juvenile Justice and Delinquency Prevention Act (JJDP). Each state participating in the JJDP Act is required to establish a State Advisory Group, which is responsible for assisting in the coordination and distribution of the JJDP Act grant funds on a statewide basis. The Missouri Department of Public Safety is the agency responsible for the actual administration of the provisions of the JJDP Act, including oversight of the Juvenile Advisory Group.

Over these years millions of dollars have been distributed via Title II, Title V, Challenge, and Juvenile Accountability Incentive Block Grants (JAIBG) to various your service organizations, law enforcement agencies and juvenile courts throughout the State.

MISSOURI JUVENILE JUSTICE ADVISORY GROUP

The purpose of the Missouri Juvenile Justice Advisory Group (JJAG) is to provide leadership and education to the people of Missouri in the area of juvenile justice and ensure the safety and well being of all youth, their families and communities. As an advocacy group serving the interest of youth, juvenile justice and public safety, the JJAG serves as the conduit for federal, state and local education, treatment and prevention services. In addition to serving the specific needs of Missouri, the JJAG assist and advises the Governor and the Missouri Department of Public Safety, which is designated as the state agency to meet and maintain compliance with the Juvenile Justice and Delinquency Prevention Act of 1974, as amend.

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The Missouri Juvenile Justice Association (MJJA) is a statewide, not-for-profit 501(c)(3) organization. Solely dependent upon donations and memberships, MJJA brings together juvenile justice system professionals and agencies, and interested organizations, corporations and individuals that are committed to improving the Missouri juvenile justice system for the sake of children in need of a future. MJJA envisions a preferred future in which the public is aware and supportive of the delivery of quality juvenile justice service to the children of Missouri defined as status offenders, delinquents and abused and neglected children. In this preferred future, MJJA demonstrates leadership by maintaining and enhancing quality collaborative training opportunities and forums for sharing expertise to guide and support the professional development of its broad based membership. As an advocate for children's rights and services, MJJA is recognized as a proactive leader in Missouri and nationally. MJJA's leadership is reflected in maintaining a leading juvenile justice information clearinghouse and effectively serving and addressing issues raised by the diverse agencies involved in the juvenile justice system. The mission of MJJA is to develop and promote a quality juvenile justice service delivery system for the youth of the state of Missouri.

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DEFINITIONS

Abuse: any physical injury, sexual abuse, or emotional abuse inflicted on a child other than by accidental means by those responsible for his/her care, custody and control except that discipline including spanking, administered in a reasonable manner shall not be construed to be abuse (Section 210.110 RSMo).

Adult: any person seventeen years of age or older (defines age of criminal responsibility based on Section 211.021 RSMo).

Adult Lock-Up or Adult Holding Area: a facility, similar to an adult jail, operated by a county, municipality or other agency for temporary detention of adults with detention generally not continuing after the formal filing of charges (Federal Register, Volume 53, No. 512).

Age Limits for Juveniles: the juvenile court has jurisdiction over persons 17 years of age or younger regarding child abuse and neglect. Parents have an obligation to provide for children until they attain the age of 18 years. For the purposes of status offenses, the court may exercise jurisdiction until the juvenile reaches his seventeenth birthday (Section 211.031.1(2) RSMo). The court may exercise jurisdiction over the juvenile for delinquency until the juvenile reaches his seventeenth birthday (Section 211.031.1(3) RSMo). Upon apprehension and arrest, jurisdiction over a criminal offense allegedly committed by any person between seventeen and twenty-one years of age over whom the juvenile court has retained continuing jurisdiction shall automatically terminate and that offense shall be dealt with in the court of general jurisdiction as provided in section 211.041 (211.071.2 RSMo). The Division of Youth Services shall not keep any child beyond his eighteenth birth date, **except** upon petition and a showing of just cause, in which case the Division may maintain custody until the child's twenty-first birthday (Section 219.021.1 RSMo).

Age Misrepresentation: if a juvenile knowingly and willfully misrepresents his/her age, that misrepresentation shall not affect any action or proceeding which occurs based upon the misrepresentation. That is, any evidence obtained during the period when the juvenile misrepresents his age may be used against the juvenile and will be subject only to rules of evidence applicable in adult proceedings (Section 211.071.3.RSMo).

Booking Area (Non-Secure): an unlocked room, or set of rooms used to identify, process and release, or transfer a juvenile taken into lawful custody (Federal Register, Volume 53, No. 512).

Booking Area (Secure): a locked room, or set of rooms used to identify, process and release, or transfer a juvenile taken into lawful custody, including sally-port areas (Federal Register, Volume 53, No. 512).

Certification: the process of transferring a child from the jurisdiction of the juvenile court to the court of general jurisdiction (adult court) for prosecution and sentencing under the general law. Juveniles may be certified at any age if that juvenile is charged with first degree murder, second degree murder, first degree assault, forcible rape,

forcible sodomy, first degree robbery, distribution of drugs, or if the juvenile has committed two or more prior unrelated offenses which would be felonies if committed by an adult and is currently charged with an offense which would be a felony if committed by an adult. Additionally, a juvenile twelve or older may be certified if he/she is alleged to have committed any offense which would be a felony if committed by an adult, regardless of past adjudication history. Only a juvenile court judge can actually “certify” a juvenile to stand trial in adult court. Once a juvenile is certified, they are no longer subject to juvenile court jurisdiction unless the juvenile is found not guilty the charges for which they were originally certified (Section 211.071 RSMo).

Child: any person, regardless of physical or mental conditions, under eighteen years of age (Abuse and Neglect, Section 210.110 RSMo). A person under seventeen years of age (Delinquency, Section 211.021(2) RSMo).

Custody (Non-Secure): the holding of a juvenile in an unlocked multipurpose area, such as a lobby, office or interrogation room which is not designed, set aside or used as a secure detention area, under the following conditions: **1)** the juvenile is not physically secured to a cuffing ring/rail or other stationary object during the period of custody in the area; **2)** the use of the area is limited to providing non-secure custody only long enough and for the purpose of identification, investigation, release to parents, or arranging transfer to an appropriate juvenile facility or to court; **3)** in no event can the area be designed or intended to be used for residential purposes; and **4)** the juvenile must be under continuous visual supervision by a law enforcement officer or facility staff while the juvenile is in non-secure custody (Federal Register, Volume 53, No. 512).

Custody (Secure): occurs when a jail or lock-up facility physically detains or confines a juvenile in a locked room, set of rooms, or a cell designated, set aside or used for the specific purpose of securely detaining persons in law enforcement custody. Secure custody may result from being locked in a room or enclosure and/or from being physically secured to a cuffing ring/rail or other stationary object (Federal Register, Volume 53, No. 512).

Deinstitutionalization of Status Offenders: a core requirement of the Federal Juvenile Justice and Delinquency Prevention Act of 1974, as amended, which requires that juvenile status offenders and non-offenders (abused or neglected children) may not to be securely detained. Secure detention includes being locked into a room, set of rooms, or a cell specifically used for detaining persons in custody, and also the use of cuffing rings/rails or other stationary objects. **Note that under the federal definition, possession of alcohol and tobacco, and curfew violations are considered status offenses.** Under special conditions, an exception allows juvenile status offenders and non-offenders to be held in a court designated juvenile detention facility, but with certain restrictions (Federal Regulations set forth in various editions of the Federal Register).

Detention: the taking and retention of the person of a juvenile in judicial custody in connection with proceedings under Sections 211.031.1(2)-(3) RSMo. (Missouri Supreme Court Rule 110.05).

Emancipated Minor: means a person who is at least sixteen years of age, but less than eighteen years of age who (a) marries with the consent of the legal custodial parent or

legal guardian pursuant to section 451.080 RSMo, (b) has been declared emancipated by a court of competent jurisdiction, (c) enters active duty in the armed forces, (d) has written consent to the emancipation from the custodial parent or legal guardian or, (e) through employment or other means provides for such person's own food, shelter and other cost-of-living expenses (Section 302.178.4 RSMo). Additionally, a sixteen or seventeen year old minor may enter into a contract for housing, employment, purchase of a car, a student loan, may enroll in school, consent to medical care, may establish a bank account and may be admitted to a homeless shelter if (the minor qualifies under the law as homeless or a victim of domestic violence but is not under the supervision of Division of Family Services or the juvenile court, (b) the minor is self supporting; and, (c) the minor's parents have consented to the minor living independent of the parents' control (Section 431.056 RSMo.). *** All juveniles must be referred to juvenile court for offenses committed prior to their 17th birthday, unless the juvenile was previously certified and not acquitted. The fact that a juvenile is 16 years old and emancipated does not change this.**

Emergency Protective Custody: temporary placement by a law enforcement officer or physician within a hospital, medical facility, emergency foster care facility or such other suitable custody as authorized by the court of a juvenile alleged to have been abused or neglected; provided that such custody may not be within a secure detention facility. Emergency protective custody shall not exceed twelve hours (Missouri Supreme Court Rule 111.11(c)).

Exclusion to Juvenile Court Jurisdiction: a child 15 ½ years of age or older who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, or any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product (211.031.1(1)(e) RSMo). A child who is alleged to have violated a state law or municipal ordinance, or any person who is alleged to have violated a state law or municipal ordinance prior to attaining the age of seventeen years, in which cases jurisdiction may be taken by the court of the circuit in which the child or person resides or may be found or in which the violation is alleged to have occurred; except that, the juvenile court shall not have jurisdiction over any child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, or any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product (211.031.1(3) RSMo).

Jail or other Adult Detention Facility: any locked facility administered by state, county or local law enforcement and/or correctional agencies whose primary is to detain adults charged with violating a criminal law pending trial, and to hold convicted adults sentenced to less than one year of incarceration (defined for federal compliance monitoring purposes).

Jail Removal: a core requirement of the Federal Juvenile Justice and Delinquency Prevention Act, which provides that no juvenile may be detained or confined in an adult jail or lockup, unless transferred to adult court for criminal prosecution (certified as an adult). An exception does allow for a juvenile accused of a delinquent offense (a law violation as opposed to a status offense) to be securely held for up to six hours for

processing purposes only. Sight and sound separation must still be maintained. If any delinquent youth is securely detained, a log must be kept detailing the time the juvenile entered a secure holding status, the time the juvenile was released that status and a notation as to the most serious offense for which the juvenile was taken into custody. Note that status offenders and non-offenders (such as abused and neglected children) may not be securely held for any length of time in a law enforcement facility (based on federal regulations set forth in various editions of the Federal Register).

Judicial Custody: the taking or retention of custody of a juvenile in either protective custody or detention (Missouri Supreme Court Rule 110.05(10)).

Juvenile: a person under twenty-one who is subject to the court's jurisdiction (Missouri Supreme Court Rule 110.05(12)).

Juvenile Offender: an individual subject to juvenile court jurisdiction for adjudication and treatment based on age and offense limitations, i.e., a criminal type (delinquent) offender or status offender (based on federal regulations set forth in various editions of the Federal Register).

Juvenile Officer: includes deputy juvenile officer and other court personnel the court has authorized to exercise the powers of the juvenile officer (Missouri Supreme Court Rules 110.05(15))

Juvenile Detention Facility: a place of temporary care for juveniles who are in judicial custody in connection with proceedings under Sections 211.031(2)-(3) RSMo, and includes physically confining facilities, but does not include a jail or other adult detention facility. This is a place, institution, building or set of buildings designated by the juvenile court as a place of detention for juveniles. These facilities are operated, administered and staffed separately and independently of a jail or other detention facility for adults and are used exclusively for lawful custody and treatment of juveniles. The facility may be owned or operated by public or private agencies. A juvenile detention facility may be located in the same building or on the same grounds as a jail or other adult detention facility if: (1) there is spatial separation between the facilities which prevents haphazard or accidental contact between juvenile and adult detainees; (2) there are separations between juvenile and adult program activities; and (3) there are separate juvenile and adult facility staff other than specialized support staff who have infrequent contact with detainees such as custodians, medical personnel, etc. (Section 211.151.4(2) RSMo).

Non-Offender: a child who is alleged or has been adjudicated under Section 211.031.1(1) RSMo., and who is subject to the jurisdiction of the juvenile court up to age eighteen (18), but who is not alleged to have committed a delinquent act or a status offense. Non-Offenders are generally children taken into custody for protection due to being subject to or potentially subject to abuse and/or neglect (defined for federal compliance monitoring purposes).

Non-Secure Facility: a facility characterized by physically non-restrictive construction, hardware and procedures, and which provides its residents access to the surrounding

community with minimal supervision (defined for federal compliance monitoring purposes).

Protective Custody: means the taking and retention of a juvenile in judicial custody to protect the juvenile from imminent danger of serious physical harm or threat to life (Sections 210.125 and 211.031.1(1) RSMo).

Secure Facility: a facility having structures designed to restrict the physical movements and activities of juveniles or others held in legal custody inside. Generally includes such physical structures as walls, fences and/or continuously locked doors designed to totally restrict movement away from an area (defined for federal compliance monitoring purposes).

Sight and Sound Separation: a core requirement of the Federal Juvenile Justice and Delinquency Prevention Act that juvenile offenders and adult criminal offenders (including trustees) shall not have contact with each other. Sight contact is defined as clear visual contact between adult offenders who are in close proximity to juveniles. Sound contact is defined as direct oral communications between adult offenders and juveniles (based on Federal Regulations set forth in various editions of the Federal Register).

Status Offender: a child who is alleged or has been adjudicated under Section 211.031.1(2) RSMo for conduct that, under Missouri law, would not be a crime if committed by an adult, including truancy, incorrigibility and runaway behavior. As used in determining compliance with federal regulations, this term also includes juveniles taken into custody for possession of alcohol and/or tobacco and for juveniles taken into custody for alleged curfew violations (defined for federal compliance monitoring purposes).

Temporary Protective Custody: temporary placement by the juvenile officer within a hospital, medical facility, foster care facility or such other suitable custody as authorized by the court of a juvenile alleged to have been abused or neglected, provided that such custody shall not be within a secure detention facility (Rules 110.05(25)).

CUSTODY OF STATUS vs. DELINQUENT OFFENDERS
for Law Enforcement Departments
Per Federal Regulations

<u>Status Offender</u>	<u>Delinquent Offender</u>
✓ Do not use a holding cell	May use a holding cell or locked room for processing purposes only and for up to 6 hours
✓ Do not cuff to stationary object	May cuff to stationary object for processing purposes only and for up to 6 hours
✓ Do not lock in a room	May lock in a room for processing purposes only and for up to 6 hours
✓ May cuff to a non-stationary object (ex. chair, table, themselves)	May cuff to a non-stationary object (ex. chair, table, themselves)
✓ Do not allow sight or verbal contact with adult inmates or trustees	Do not allow sight or verbal contact with adult inmates or trustees
✓ Keep a custody log	Keep a custody log
✓ Check frequently	Check frequently

Sight and sound separation must be maintained at all times.

MONTHLY LOG OF JUVENILES TAKEN INTO CUSTODY

DEPARTMENT _____

REPORTING MONTH _____

Juvenile ID/Initials	DOB	Race/ Sex	Most Serious Offense Alleged	Arrived Time/Date	Released Time/Date	Securely Held??	Disposition	Officer	Key
									<div style="text-align: left; padding-top: 10px;"> Race Code: W-White B-Black H-Hispanic I-American Indian A-Asia/Oriental O-Other Offense Code: 100-Persons Offenses 200-Property Offenses 300-Public Order Offenses 400-Status Offenses 500-Traffic Offenses 600-Pickup Order 700-Abuse and/or Neglect Disposition Code: A-Release to Parent/Guardian B-Release to Juvenile Officer C-Transfer to Detention D-Transfer to Hospital E-Other (explain) (Form may be duplicated) </div>

INTERSTATE COMPACT ON JUVENILES

STATE	A	B	C	D	E	F
Alabama	X		X		18	19
Alaska	X			X	18	18
Arizona	X	X	X		18	18
Arkansas	X		X		18	18
California	X		X	X	18	18
Colorado	X	X	X		18	18*
Connecticut	X		X		16	18
Delaware	X		X	X	18	18
Florida	X	X	X	X	18	18
Georgia	X		X		17	18
Hawaii	X		X	X	18	18
Idaho	X	X	X		18	18
Illinois	X	X	X	X	17	18
Indiana	X	X	X	X	18	18
Iowa	X		X	X	18	18
Kansas	X	X	X		18	18
Kentucky	X	X	X		18	18
Louisiana	X	X	X		17	18
Maine	X		X		18	18
Maryland	X	X	X	X	18	18
Massachusetts	X	X	X		17	18
Michigan	X		X		17	18
Minnesota	X	X	X		18	18
Mississippi	X	X	X		18	21
Missouri	X		X		17	18
Montana	X	X	X	X	18	18
Nebraska	X	X	X	X	19	19

STATE	A	B	C	D	E	F
Nevada	X		X		18	18
New Hampshire	X	X	X		18	18
New Jersey	X		X		18	18
New Mexico	X	X	X	X	18	18
New York	X	X	X		16	18
North Carolina	X		X	X	16	18
North Dakota	X		X		18	18
Ohio	X		X		18	18**
Oklahoma	X	X	X		18	18
Oregon	X		X		18	18
Pennsylvania	X	X	X	X	18	18
Rhode Island	X		X		18	18
South Carolina	X	X	X		17	18
South Dakota	X		X		18	18
Tennessee	X				18	18
Texas	X	X	X		17	18
Utah	X		X		18	18
Vermont	X	X	X		18	18
Virginia	X		X		18	18
Washington	X		X		18	18
West Virginia	X		X		18	18
Wisconsin	X		X		18	18
Wyoming	X		X		19	19
JURISDICTION						
D.C.	X	X	X		18	18
Guam	X				18	
Virgin Islands	X	X	X		18	18

KEY (X-Signatory)

- A -- Basic Compact
- B -- Runaway Amendment
- C -- Rendition
- D -- Out-of-State

- E -- Age offenders are Classified as Adults
(Not Maximum Juvenile Probation or
Parole Age)
- F -- Age of Majority

* Under Children's code; otherwise 21

** Unless mental or physical handicap, then 21

Note relating to Column E: Most states allow the Juvenile/Family Court to extend its jurisdiction to age 21 whenever necessary for the child's protection. Whenever the court exercises this option, age of majority is extended to age 21 or the date the court dismisses jurisdiction, whichever occurs first.

A minor is considered to be legally emancipated upon marriage, provided the marriage is recognized as valid within the state where the marriage occurred.

- ◆ Out of state juvenile offenders are under the age requirements and jurisdiction from the state in which they reside.

This information is provided by Lyle Cunningham, of the Division of Youth Services, and Charles Edwards of the Division of Family Services. Excerpted from the Missouri Juvenile Code distributed by the Missouri Juvenile Justice Association.

COOPERATION BETWEEN LAW ENFORCEMENT OFFICIALS, JUVENILE COURTS and OTHER AGENCIES

It is the duty of police officers, sheriffs and other authorized persons taking a child into custody to give information of that fact immediately to the juvenile officer or one of his/her deputies and to furnish the juvenile court or the juvenile officer with all the facts in their possession pertaining to the child, the parents, guardian or other persons interested in the child, together with the reasons for taking the child into custody (Section 211.411.2 RSMo).

VENUE OPTIONS

Venue: refers to the location where the court action must be held. Juvenile matters must be held in the family court or the juvenile division of the circuit court. There are different venue provisions for different types of cases in the court.

Abuse/ Neglect: venue lies in the county where the juvenile resides or in the county where the juvenile is found (Section 211.031.1(1) RSMo).

Status Offenses: venue lies in the county where the juvenile resides or in the county where the juvenile is found (Section 211.031.1(2) RSMo).

Delinquency: venue lies in the county where the juvenile resides, where the juvenile may be found, or in the county where the offense was committed (Section 211.031.1(3) RSMo).

Type of Case	Residence	Where Juvenile Found	Where Offense Committed
Abuse/Neglect	Yes	Yes	N/A
Status	Yes	Yes	N/A
Delinquency	Yes	Yes	Yes

COOPERATION WITH THE FEDERAL REQUIREMENTS

In 1974, Congress passed the Juvenile Justice and Delinquency Prevention Act in an attempt to help state and local governments address the problem of juvenile delinquency. The Act promoted the development of effective programs to prevent delinquency, divert juveniles from the juvenile justice system, provide alternatives to institutionalization, etc. The Act also created requirements that states must adhere to as conditions for receiving federal juvenile justice funding.

Within the State, the **Missouri Department of Public Safety (DPS)** administers the provisions of the **JJDP Act**. **DPS** administers federal funds working with the Governor appointed **Juvenile Justice Advisory Group (JJAG)**. At this time, **DPS** contracts with the **Missouri Juvenile Justice Association (MJJA)** to perform the required monitoring of compliance with the Act's requirements, and to provide training and technical assistance to law enforcement, courts and other youth serving organizations. *Because Missouri receives federal funding for juvenile justice initiatives, each facility must respond to the semi-annual written surveys and have periodic on-site visits to verify the information submitted on the written surveys.* Missouri has 24 court-operated secure juvenile facilities that submit monthly surveys and receive an on-site visit annually. The Missouri Department of Corrections and the Division of Youth Services are also classified as part of the monitoring universe. Submitted data is compiled into a report submitted to the Federal Office of Juvenile Justice and Delinquency Prevention (OJJDP) each year. To participate in the Act and receive federal funding, Missouri must meet and verify compliance with four specific mandates:

- Section 223 (a)(12) --Deinstitutionalization of Status Offenders,**
- Section 223 (a)(13) --Sight and Sound Separation (Sect. 211.151.4(2) RSMo.)**
- Section 223 (a)(14) --Jail Removal, and**
- Section 223 (a)(23) --Disproportionate Minority Confinement.**

In addition, Missouri will continue to receive Title II, Title V and Challenge grants if the state remains in compliance with the core requirements. Missouri along with the cities and counties must be in compliance with the core requirements of the JJDP Act for those agencies that desire to apply for Title V funding. Compliance is achieved by not exceeding the violation allowances set forth by Federal Regulations. These violation allowances (de minimus rate) are as follows:

- | | |
|--|--|
| <input type="checkbox"/> Deinstitutionalization of Status Offenders: | 29.4 violations per 100,000 youth under age 18 |
| <input type="checkbox"/> Jail Removal: | 9.0 violations per 100,000 youth under age 17 |
| <input type="checkbox"/> Sight and Sound Separation: | Any violation may result in noncompliance |

The formula for determining whether a specific locality is in compliance with a specific core requirement is as follows:

- ☐ # of violations in a specific category/(population/100,000) = de minimus rate

If the State fails to comply with each of these requirements, failure would result in the loss of federal juvenile justice funds. Any funds previously granted to the state would be required to be spent on bringing the State back into compliance, thus taking away the ability to provide financial aid to the programs currently funded.

FEDERAL CORE REQUIREMENTS

Section 223(a)(12) - The Deinstitutionalization of Status Offenders

This requirement provides that juvenile status offenders and non-offenders (abuse or neglected children) may not be detained in a secure facility. This includes any length of time that they may spend in a law enforcement facility. *(Note that under state law an abused or neglected child may not be detained in temporary custody in a secure detention facility, Section 210.125.5).* Under special conditions, an exception allows juvenile status offenders and non-offenders to be held in a designated juvenile detention facility, but with certain restrictions.

The exception to this requirement allows for status offenders or non-offenders to be securely detained in a juvenile detention facility for up to 24-hours, exclusive of weekends or legal holidays, prior to an initial court appearance, and for an additional 24-hours, exclusive of weekends or legal holidays, immediately following an initial court appearance. *(Note that state law does not permit this additional 24-hour post-hearing holding period for status offenders unless the valid court order exception is invoked.)* Unused hours from any pre-hearing placement may not be added to the post-hearing 24-hour time limit.

Additionally, a status offender found to have violated a Valid Court Order may be securely detained beyond the 24-hour post-hearing time limit, provided that a probable cause hearing was held within 24-hours of the status offender's initial placement in secure detention, and that all of the other conditions for holding a status offender under this exception have been met. In any event, a non-offender may not be securely held under the Valid Court Order exception, thus being limited to the 24-hour pre-hearing/24-hour post-hearing exception.

Section 223 (a)(13)-Sight and Sound Separation

This requirement provides that if juveniles are temporarily detained in a facility that is also used to hold adult offenders (either accused or adjudicated), sight and sound separation must be maintained between the juveniles and adult offenders, including trustees.

Section 223 (a)(14)-Jail Removal

This requirement provides that no juvenile may be detained or confined in an adult jail or lockup, unless transferred to adult court for criminal prosecution. An exception does allow for a juvenile accused of a delinquent offense (a law violation as opposed to a status offense) to be securely held for up to six hours for processing purposes. Sight and sound separation must still be maintained.

Section 223(a)(23)-Disproportionate Minority Confinement

This section demonstrates an effort to reduce the number of minority youth in secure facilities where the proportion of minority youth in confinement exceeds the proportion such groups represent in the general population. To meet the DMC core requirement, states go through stages of data gathering, analysis and problem identification, assessment, program development, and systems improvement initiatives.

Cooperation With Missouri Division of Family Services

The role of the Division of Family Services (DFS) is to assure the protection of children by assisting their caregivers in providing a safe and nurturing environment in which children can grow. To accomplish this task, DFS maintains partnerships with families and the community to assure child safety and well being. This section will explore the role and responsibilities of DFS staff and law enforcement they work together to protect children from abuse/neglect and to promote children's well being.

Mandate

The Missouri Division of Family Services has statutory responsibility and authority for accepting and investigating all reports of child abuse and/or neglect of children under 18. That authority comes to DFS under Chapters 207, 210 and 211 RSMo. These chapters charge DFS with the responsibility for serving the needs of Missouri's children by providing remedial treatment services and where needed, alternative placement outside the birth home when such placement is in the best interest of the child.

Involving Law Enforcement

When DFS receives a hot-line report, which is classified as an investigation, DFS will immediately notify the appropriate local law enforcement agency to assist in the investigation. DFS staff has developed protocols with local law enforcement agencies, which outline procedures to be followed in conducting co-investigations.

Current law requires the Division to co-investigate, with law enforcement reports, which would constitute suspected violations of specific laws (210.1453(4) RSMo). The appropriate law enforcement agency shall either assist the Division in the investigation or provide, within 24 hours, a written explanation detailing why they are unable to assist (210.145.3(4) RSMo).

In those reports where both law enforcement and DFS are mandated to do an investigation, teamwork can offer the following benefits, both to the child victim and to the professionals involved in the case:

- Coordinated responses can reduce the number of interviews a child undergoes;
- It can minimize the number of people involved in a case and avoid duplication of efforts;
- Enhance the quality of evidence needed for trial;
- The transition from investigation to intervention can also be smoother (Findley, 1991: National Institute of Justice, 1991: Pence & Wilson, 1992);
- Direct communication and exchange of information;
- Skill improvement of team members because of sharing different perspectives (Skaff, 1988);
- Efficiency is enhanced through joint investigation

Protective Custody

Authority to secure “protective custody” of a child is found in section 210.125 RSMo. Twelve hour protective custody may be taken by a police officer, law enforcement official or a physician who has cause to believe a child is suffering from illness or injury, or is in danger of personal harm from abuse or neglect where the threat of harm to the child may occur before a court can issue an order assuring protective custody.

In co-investigations, the intake social worker and law enforcement officer shall use their professional expertise to make a joint determination regarding the necessity of protective custody. The law enforcement officer, physician and juvenile officer may then authorize 12 hour protective custody, if appropriate.

Placement

When a child must go into protective custody, he or she may feel afraid, lost and angry. This can be a very traumatic time for a child, especially when they are placed with a stranger. To minimize this trauma, the Division has been mandated by law (210.565 RSMo) to give preference and first consideration for foster care placement to a grandparent of a child. If grandparents are not available or are not interested in caring for their grandchild, other relative providers will be given first preference and first consideration over foster family placement providers. Law enforcement officers can assist in this process by getting names of relatives from caregivers at the time of arrest, or placement of children.

JUVENILE OFFICER DIRECTORY

(Unless Otherwise Indicated)

NAME	CIRCUIT	PHONE NUMBER
➤ Gilbert L. Alderson	23	636-797-5350
➤ Cindy Kennel Ayers	41	660-385-2715
➤ Beth Billington <i>Family Court Administrator</i>	20	636-583-7387
➤ George Boyd	24	573-756-5766
➤ Rick A. Bradley	4	660-582-4312
➤ Chad Campbell	5	816-271-1421
➤ David Cook <i>Juvenile Officer/Court Services</i>	19	573-636-5177
➤ James Cottey <i>Director-Juvenile Court Services</i>	1	660-457-3668
➤ Rebecca L. Culler	27	660-885-6963
➤ Michael Davis	35	573-568-2159
➤ David Gann	43	660-646-0817
➤ Cathy Gorham	40	417-451-8236
➤ Alan Gremli <i>Juvenile Officer/Director of Court Services</i>	7	816-792-7681
➤ Raymond J. Grush <i>Family Court Administrator</i>	11	636-949-3040
➤ Kathryn S. Herman <i>Asst. Court Administrator/ Juvenile Officer</i>	22	314-552-2042
➤ Tom Hoover	9	660-895-5022

NAME	CIRCUIT	PHONE NUMBER
➤ Bill Jines	39	417-235-6245
➤ David Wm. Kierst, Jr. <i>Juvenile Officer/Director of Family Court Services</i>	16	816-435-4850
➤ Bill C. Lawson	33	573-472-2554
➤ Marti Lester	14	660-263-2970
➤ Philip W. Livesay	10	573-221-1182
➤ Jeani Longstreth	28	417-667-5015
➤ Kathleen Loyd	42	573-729-7990
➤ Mildred Lunsford	36	573-686-8054
➤ Vernon M. McClure	8	816-776-5571
➤ Amy Meyers	15	660-259-4235
➤ William D. Myers	34	573-748-2123
➤ Douglas E. Oyer	17	816-380-8475
➤ Ernest Painter	45	636-528-4332
➤ Robert L. Perry <i>Court Administrator</i>	13	573-886-4060
➤ Gerald H. Poepsel	20	636-583-7333
➤ Randall Rhodes	32	573-334-6001
➤ Winston Rutledge <i>Juvenile Court Administrator</i>	19	573-636-5177
➤ Dana Sanders	29	417-625-4300
➤ Carol Scott <i>Chief Juvenile Officer/ Administrator</i>	18	660-827-1062

NAME	CIRCUIT	PHONE NUMBER
➤ William Seely <i>Court Administrator/ Chief Juvenile Officer</i>	21	314-615-2980
➤ Russell L. Shelden	25	573-774-4730
➤ Barbara B. Smith <i>Court Administrator</i>	33	573-472-2554
➤ Catheryn Smith	3	660-359-2347
➤ Lisa Smith	13	573-886-4200
➤ Stan Smith	37	417-256-2432
➤ Mickie Stark	31	417-829-6127
➤ Brad Stocker	30	417-468-5263
➤ Cathie Van Matre	12	573-473-5880
➤ Frank Vancil	44	417-926-3129
➤ Mike Waddle	2	660-665-4224
➤ Tammy Walden	26	573-317-0099
➤ Ronald Wampler	38	417-581-7274
➤ Janet Warner	6	816-858-3420

JUVENILE COURT DETENTION FACILITIES

2nd Circuit

Bruce Normile Juvenile Justice Center
1400 South Boundary
Kirksville, MO 63501
Andrew Grimm, Superintendent
Tel: 660/665-4224 Fax: 660/665-2968

5th Circuit

Buchanan Co. Juvenile Detention Center
501 Faraon
St. Joseph, MO 64501
Rhoda Shute, Detention Supervisor
Tel: 816/271-1421 Fax: 816/271-1422

7th Circuit

Clay County Juvenile Detention Center
351 E. Kansas
Liberty, MO 64068
Jennifer Orr, Superintendent
Tel: 816/792-7681 Fax: 816/792-7780

11th Circuit

St. Charles Co. Juvenile Justice Center
300 North Third Street
St. Charles, MO 63301-2019
James Rohrbach, Superintendent
Tel: 314/949-3038 Fax: 314/949-3028

13th Circuit

Boone Co. Juvenile Justice Center
5665 N. Roger I. Wilson Memorial Drive
Columbia, MO 65202
Kirk Kippley, Superintendent
Tel: 573/886-4450 Fax: 573/886-4461

16th Circuit

Jackson Co. Juvenile Detention Center
625 E. 26th Street
Kansas City, MO 64108
Barry Latzman, Superintendent
Tel: 816/435-4704 Fax: 816/435-4758

17th Circuit

Johnson Co. Secure Detention Center
POB 5, 310 Maynard
Warrensburg, MO 64093
Jim Campbell, Director of Detention
Tel: 660/474-8019 Fax: 660/747-2182

18th Circuit

Pettis Co. Juvenile Service Center
204 East Fourth Street
Sedalia, MO 65301
Cathy Coble, Detention Supervisor
Tel: 660/827-1062 Fax: 660/827-8632

19th Circuit

Michael W. Prenger Family Center
400 Stadium Blvd.
Jefferson City, MO 65101
Rodney Smith, Detention Supervisor
Tel: 573/636-5177 Fax: 573/634-5162

20th Circuit

Franklin Co. Juvenile Justice Center
4A S. Church St.
Union, MO 63084
Pat Aubuchon, Superintendent
Tel: 314/583-7373 Fax: 314/583-7376

21st Circuit

St. Louis Co. Family Court Detention Center
501 S. Brentwood Blvd.
Clayton, MO 63105
Cheryl Campbell, Director of Detention
Tel: 314/615-4400 Fax: 314/615-4477

22nd Circuit

St. Louis City Juvenile Detention Center
3847 Enright Avenue
St. Louis, MO 63108
Allen Irving, Superintendent
Tel: 314/552-2189 Fax: 314/552-2260

23rd Circuit

Jefferson Co. Children's Home
POB 100
Hillsboro, MO 63050
Joseph Polette, Superintendent
Tel: 314/797-5042 Fax: 314/797-5042

24th Circuit

Stan J. Murphy Juvenile Court Services
POB 30
Farmington, MO 63640
Cheryl Graham, Superintendent
Tel: 573/756-5766 Fax: 573/756-5752

26th Circuit

Camden Co. Juvenile Justice Center
581 W. Hwy. 54, POB 440
Camdenton, MO 65020
David Boucher, Superintendent
Tel: 573/317-0099 Fax: 573/346-9682

29th Circuit

Jasper Co. Youth Detention Center
530 Pearl
Joplin, MO 64801
David Jones, Superintendent
Tel: 417/623-6676 Fax: 417/623-2775

30th Circuit

Youth Services, Inc.
211 West Walnut
Bolivar, MO 65613
Randolph Blosch, Administrator
Tel: 417/777-8530 Fax: 417/777-6843

31st Circuit

Greene Co. Juvenile Justice Center
1111 North Robberson
Springfield, MO 65802
Marie Swope, Superintendent of Detention
Tel: 417/868-4008 Fax: 417/868-4119

32nd Circuit

Cape Girardeau Co. Juvenile Det. Center
325 Merriwether
Cape Girardeau, MO 63701
Patricia Colon, Detention Administrator
Tel: 573/334-2434 Fax: 573/334-2604
or 573/334-8429

33rd Circuit

Mississippi Co. Juvenile Det. Center
200 W. Commercial, #B
Charleston, MO 63834
Becky Tinsley, Detention Superintendent
Tel: 573/683-2976 Fax: 573/683-4068

35th Circuit

Stoddard Co. Juvenile Services
POB 50
Bloomfield, MO 63825
Norman McRoberts, Superintendent
Tel: 573/568-2159 Fax: 573/568-2103

36th Circuit

Butler-Ripley Detention Center
331 North Main
Poplar Bluff, MO 63901
Mildred Lunsford, Juvenile Officer
Tel: 573/686-8054 Fax: 573/686-8451

44th Circuit

Regional Juvenile Justice Center
POB 390, East First Street
Mountain Grove, MO 65711
Janet Schwertfeger, Director of Detention
Tel: 417/926-3120 Fax: 417/926-3691

DIVISION of YOUTH SERVICES
Secure Care Facilities

Fulton Treatment Center

1650 Highway O
P.O. Box 847
Fulton, MO 65251
(573) 797-4188
Facility Manager-Mary Finn

Riverbend Treatment Center

5910 Mitchell Avenue
St. Joseph, MO 64156
(816) 387-2917
Facility Manager-Kim Kirkendoll

Hillsboro Treatment Center

10434 State Road BB
Hillsboro, MO 63050
(636) 797-9813
Facility Manager-Pili Robinson

Hogan Street Regional Youth Center

1839 Hogan Street
St. Louis, MO 636106
(314) 241-7525
Facility Manager-Pili Robison

Montgomery City Youth Center

300 Niedergerke Drive
Montgomery City, MO 63361
(573) 564-5262
Facility Manager-Loran Hume

Mount Vernon Treatment Center

500 State Drive
Mount Vernon, MO 65712
(417) 466-0292
Facility Manager-Scott Divine

Northwest Regional Youth Center

4901 N.E. Barry Road
Kansas City, MO 64156
(816) 387-2917
Facility Manager-Kim Kirkendoll

Moderate Care Facilities

Babler Lodge

1010 Lodge Road
Chesterfield, MO 63005
(636) 458-2992
Facility Manager-Rich Alotta

Bissell Hall

13298 Bellefontaine Road
St. Louis, MO 63138
(314) 355-8088
Facility Manager-Greg Ryland

Camp Avery Park Camp

198 Avery Lane
Troy, MO 63379
(636) 528-8800
Facility Manager-Sam Turner

Community Learning Center

3990 W. Sunshine
Springfield, MO 65807
(417) 888-4055
Facility Manager-Ed Dorris

Delmina Woods

8872 State Highway H
Forsyth, MO 65653
(417) 634-3196
Facility Manager-J.D. Barton

Fort Bellefontaine

13290 Bellefontaine Road
St. Louis, MO 63138
(314) 355-7807
Facility Manager-Paula Orlando

Gentry Residential Treatment Center

2001 DYS Drive
Cabool, MO 65689
(417) 962-4344
Facility Manager-Hank Boyd

W.E. Sears Youth Center

9400 Sears Lane
Poplar Bluff, MO 63901

Green Gables Lodge

Route 1, Box 158
Macks Creek, MO 65786
(573) 363-5352
Facility Manager-Dave O'Dell

Lewis and Clark Hall

13311 Bellefontaine Road
St. Louis, MO 63138
(314) 355-7809
Facility Manager-Lisa Kellerman

New Madrid Bend Youth Center

7906 U.S. Highway 61
New Madrid, MO 63869
(573) 688-5237
Facility Manager-Devon Barnes

Rich Hill Treatment Center

501 N. 145h
Rich Hill, MO 64779
(417) 395-4810
Facility Manager-Kevin Glenn

Sierra Osage Treatment Center

9200 Sierra Osage Circle
Poplar Bluff, MO 63901
(573) 840-9717
Facility Manager-John Long

Spanish Lake

13312 Bellefontaine Road
St. Louis, MO 63138
(314) 355-2642
Facility Manager-Scott Barron

Twin Rivers

13316 Bellefontaine Road
St. Louis, MO 63138
(314) 355-4180
Facility Manager-Ernestine Enloe

Waverly Regional Youth Center

Route 1, Box 223Y
109 W. Kelling Ave.

(573) 840-9280
Facility Manager-Donna Nichols

Waverly, MO 64096
(660) 493-2272
Facility Manager-Mike Koch

Watkins Mill Park Camp
25610 Park Road North
Lawson, MO 64062
(816) 781-8786
Acting Facility Manager-Amy Belgacem

Low Secure Care Facilities

Cornerstone
525 S.E. Second Street
Columbia, MO 65202
(816) 622-0999
Facility Manager-Kevin Richards

Datema House
918 S. Jefferson
Springfield, MO 65806
(417) 895-6830
Facility Manager-Linda Farris

Girardot Center for Youth and Families
609 N. Middle
P.O. Box 936
Cape Girardeau, MO 63702
(573) 2909-5860
Facility Manager-Ed Pearson

Langsford House
525 S.E. Second Street
Lee's Summit, MO 64063
(816) 622-0099
Facility Manager-Reggie Collier

Northeast Girls Group Home
211 W. 12th Street
Fulton, MO 65251
(573) 592-7227
Facility Manager-April Estill

N.E. Comm. Treatment Center
710 South Clark
Mexico, MO 65265
(573) 581-6893
Facility Manager-Gary Webster

Wilson Creek
3992 W. Sunshine
Springfield, MO 65807
(417) 888-4050
Facility Manager-Alan Wilson

Day Treatment Facilities

Alpha School

1250 E. Brown School Road, Suite A
Columbia, MO 65202
(573) 449-2953
Facility Manager-Tim Mitchell

Alternative Resource Center

3100 Main, Suite 206
Kansas City, MO 64111
(816) 759-4662
Facility Manager-Fred Townson

Echo Day Treatment

3445 Armstrong Drive
Cape Girardeau, MO 63703
(573) 290-5814
Facility Manager-Judy Parrett

Excel School

1631 W. Bennet
Springfield, MO 65807
(417) 895-6240
Facility Manager-J.R. Chappell

Gateway School

1823 West 20th Street
Joplin, MO 64804
(417) 629-3410
Facility Manager-James Baldwin

New Day

5 Merchants Drive
Hillsboro, MO 63050
(636) 797-5266
Facility Manager-Jeff Hampton

Quest

3747 Harry S. Truman Blvd.
St. Charles, MO 63301
(636) 940-3160
Facility Manager-Phoebe Dickson

Reach Day Treatment

6124 Enright Ave.
St. Louis, MO 63112
(314) 725-4122
Facility Manager-Freda Theus

Sikeston Hope Center

230 W. Front Street
Sikeston, MO 63801
(573) 472-6652
Facility Manager-Quentin Morrow

St. Louis County

10450 International Plaza Drive
St. Ann, MO 63074
(314) 428-2078
Facility Manager-Karen Winfrey

Star Day Treatment

731 NE 76th Street
Gladstone, MO 64118
(816) 437-3607
Facility Manager-James McNeely

TAKING A JUVENILE INTO JUDICIAL CUSTODY

a) A juvenile may be taken into judicial custody:

- 1) Pursuant to an order of the court.
- 2) Pursuant to laws of arrest applicable to adults if being taken into detention.
- 3) A law enforcement officer or physician who has reasonable cause to believe that a child is in imminent danger or suffering serious physical harm or a threat to life as a result of abuse or neglect and such person has reasonable cause to believe the harm or threat to life may occur before a court could issue a protective custody order or before a juvenile officer could take the child into protective custody.
- 4) By a juvenile officer if there is reasonable cause to believe that the juvenile is without proper care, custody, or support and that temporary protective custody is necessary to prevent personal harm to the juvenile.

b) The taking of a juvenile into judicial custody is not an arrest.

c) The jurisdiction of the court attaches from the time the juvenile is taken into judicial custody.

Excerpted from the Supreme Court of Missouri Rules of Practices and Procedures in Juvenile Court 111.01 as published by the Missouri Juvenile Justice Association.
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ABUSE/NEGLECT AND PROTECTIVE CUSTODY
(Taking a Juvenile into Custody)

Division of Family Services (DFS) conducts investigations or family assessments in response to reports of child abuse and neglect. According to law, the appropriate law enforcement agency shall assist in these investigations.

In response to child abuse and neglect cases/investigations, co-investigations with law enforcement and DFS should be initiated immediately.

Pursuant to Section 210.115.1 RSMo., all law enforcement officers are Mandated Reporters if they have “reasonable cause to suspect” child abuse and neglect. Child abuse and/or neglect should be reported **immediately** to the **Child Abuse and Neglect Hotline at 1-800-392-3738**, regardless of whether temporary protective custody is assumed. The following people with responsibility for the care of children who have reasonable cause to suspect that a child has been or may be subjected to abuse or neglect or observes a child being subjected to conditions or circumstances which would reasonably result in abuse or neglect, shall immediately report or cause a report to be made to the Division of Family Services:

- 1) physician
- 2) medical examiner
- 3) coroner
- 4) dentist
- 5) chiropractor
- 6) optometrist
- 7) podiatrist
- 8) resident
- 9) intern
- 10) nurse
- 11) hospital or clinic personnel that are engaged in the examination, care, treatment or research of persons, any other health practitioner
- 12) psychologist
- 13) mental health professional
- 14) social worker
- 15) day care center worker or other child-care worker
- 16) juvenile officer
- 17) probation or parole officer
- 18) jail or detention center personnel
- 19) teacher
- 20) principal or other school official
- 21) Christian Science practitioner
- 22) peace officer or law enforcement official

TYPES OF CHILD ABUSE and NEGLECT

1) Physical Abuse

- a) physical injury
- b) inflicted on a child;
- c) by non-accidental means;
- d) whether the parents actually inflicted such injury; or
- e) whether the injury was inflicted by someone else and the parent should have known and took no action (or insufficient action) to protect the child.

Note: Evidence of physical injury will help support a charge of physical abuse. It is not physical abuse if injury occurs as a result of discipline administered in a **reasonable** manner.

2) Sexual Abuse

- a) inappropriate sexual touching or activities
- b) inflicted on a child;
- c) by those responsible for the juvenile's care, custody and control.

Note: Sexual abuse does not require physical injury. In fact, much sexual abuse consists of fondling or oral-genital touching which does not leave marks, bruises or injuries.

3) Emotional Abuse

- a) Close confinement (ex. tying or binding a child), patterns of verbal or emotional assault, and other overtly punitive or exploitative treatments such as deliberately withholding food, shelter or sleep, see Andrea J. Sedlack and Deane D. Broadhurst, Third National Incidence Study of Child Abuse and Neglect 2-15 (U.S Dept. of HHS 1996).
- b) Need professional psychiatric testimony to confirm the child has been subjected to some kind of emotional abuse.

4) Neglect

- a. Failure to provide: support, education, nutrition, and/or medical care necessary for the child's well being;
- b. by those responsible for the child's care.

PROTECTIVE CUSTODY

Emergency Protective Custody

Section 210.125 RSMo.

- 1) A police officer, law enforcement official, or a physician who has reasonable cause to suspect that a child is suffering from illness or injury or is in danger of personal harm by reason of his surroundings and that a case of child abuse or neglect exists, may request that the juvenile officer take the child into protective custody under chapter 211 RSMo.
- 2) A police officer, law enforcement official, or physician who has reasonable cause to believe that a child is in imminent danger of suffering serious physical harm or a threat to life as a result of abuse or neglect and such person has reasonable cause to believe the harm or threat to life may occur before a juvenile court could issue a temporary protective custody order or before a juvenile officer could take the child into protective custody, the police officer, law enforcement official or physician may take or retain temporary protective custody of the child without the consent of the child's parents, guardian or others legally responsible for his/her care.
- 3) Any person taking a child in protective custody under this section shall immediately notify the juvenile officer of the court of the county in which the child is located of his/her actions and notify the division and make a reasonable attempt to advise the parents, guardians or others legally responsible for the child's care. The jurisdiction of the juvenile court attaches from the time the juvenile is taken into protective custody. Such person shall file, as soon as practicable but no later than twelve hours, a written statement with the juvenile officer which sets forth the identity of the child and the facts and circumstances which gave such person reasonable cause to believe that there was imminent danger of serious physical harm or threat to the life of the child. Upon notification that a child has been taken into protective custody, the juvenile officer shall either return the child to his parents, guardian, or others responsible for his/her care or shall initiate child protective proceedings under chapter 211, RSMo. In no event shall an employee of the division, acting upon his/her own, remove a child under the provision of this act.

Section 111.11(c) Missouri Supreme Court Rules

- c) Emergency protective custody means temporary placement by a law enforcement officer or physician within a hospital, medical facility, emergency foster care facility or such other suitable custody as authorized by the court of a juvenile alleged to have been abused or neglected; provided, however, that such custody shall not be within a secure detention facility. Emergency protective custody shall not exceed **twelve hours**.

Temporary Protective Custody

Section 210.125 RSMo.

- 4) Temporary protective custody for purposes of this section shall not exceed twenty-four hours. Temporary protective custody for a period beyond twenty-four hours may be authorized only by an order of the juvenile court judge (e.g. 12 hours for law enforcement and 12 hours for the juvenile office = 24 hours of protective custody).
- 5) For the purposes of this section, “temporary protective custody” shall mean temporary placement within a hospital or medical facility or emergency foster care facility or such other suitable custody placement as the court may direct; provided, however, that an abused or neglected child may not be detained in temporary custody in a secure detention facility.

Section 111.12 Missouri Supreme Court Rules

- a) Upon receipt of written notification from a law enforcement officer or a physician that a juvenile has been taken into emergency protective custody pursuant to Rule 111.01a(3), the juvenile officer may unless the court has ordered protective custody of the juvenile, release the juvenile pursuant to Rule 111.02 or may take the juvenile into temporary protective custody.

Note: Law enforcement officers and physicians are authorized to take juveniles into **temporary protective custody** pursuant to section 210.125 RSMo. Written notice of such custody by a law enforcement officer or physician must be provided to the juvenile officer within **twelve hours**. Section 210.125.3 **temporary protective custody** as that term is defined in section **210.125.5 includes periods of temporary protective custody both before and after the juvenile officer is notified**. For purposes of clarification as to the obligations of those affected by these rules, these rules divide “**temporary protective custody**” as that term is used in section 210.125 into “**emergency protective custody**” as defined in Rule 111.11 and temporary Protective custody as that term is defined in Rule 110.05. (25). The period of **emergency protective custody** for the purposes of Rule 111.11 is the period from the time the juvenile is taken into custody by a law enforcement officer or physician until placed into temporary protective custody by the juvenile officer or ordered into protective custody by the court. **That period may not exceed twelve hours**.

CRITICAL TIME PERIODS IN ABUSE/NEGLECT CASES

<p>emergency protective custody by law enforcement officer or physician</p> <p>Rules 111.11</p>	<p>juvenile officer authorization of temporary protective custody (Rule 111.12)</p> <p>court order for protective custody until protective custody hearing or adjudication hearing (Rule 111.13)</p>	<p>protective custody hearing (if requested)</p> <p>Rule 111.14</p>	<p>adjudication and/or dispositional hearing</p>
<p>up to 12 hours</p> <p>Rule 111.11</p>	<p>up to 24 hours</p> <p>Rule 111.12</p>	<p>not greater than 3 days excluding weekends and legal holidays</p> <p>Rule 111.14</p>	<p>if the juvenile is continued in protective custody, a review of continued appropriateness must be made every 30 days until order of disposition (Rule 111.14d) or release upon change of circumstances (Rule 111.15)</p>

Information provided by Shawn R. McCarver, excerpted from Juvenile Officer Handbook State of Missouri.

STATUS OFFENSES

STATUS OFFENSES ACCORDING TO MISSOURI LAW AND FEDERAL REQUIREMENTS:

1. Truancy
2. Incurability, Beyond Parental Control
3. Runaway (habitual absence)
4. Injurious behavior or association
5. Minors in possession of alcohol (*federal regulation*)
6. Minors in possession of tobacco (*federal regulation*)
7. Curfew Violators (*federal regulation*)
8. Other offenses applicable only to children

Section 211.031.1(2)(a)-(e) RSMo. and Formula Grants

TRUANCY

To prove truancy, each of the following elements must be proved:

1. A child who is;
2. subject to compulsory school attendance;
3. is repeatedly absent from school;
4. without justification.

Section 211.031.1(2)(a) RSMo.

Compulsory school attendance is governed by Section 167.031 RSMo. A parent or guardian is required to enroll his child in school if the child is between the ages of seven and sixteen. A child enrolled as early as age five is also subject to the compulsory school attendance law. There are certain exceptions to the compulsory attendance law contained in sections 167.031(1), (2) or (3) RSMo. Those exceptions generally relate to:

1. mentally or physically incapacitated children;
2. children between fourteen and sixteen years of age when legal employment has been obtained and the child is excused by the superintendent; and
3. where a child between five and seven years of age has been dropped from the school's rolls because of a written request by the parent or guardian
4. children who are home-schooled in accordance with state law.

INCORRIGIBILITY

To prove incorrigibility, there must be proof of each of the following elements:

1. A child who;
2. disobeys reasonable and lawful directions;
3. of his/her parents or other custodian; and
4. is beyond their control.

Section 211.031.1(2)(b) RSMo.

RUNAWAY (habitual absence)

To prove runaway, there must be proof of each of the following elements:

1. A child who is;
2. habitually absent from home;
3. without sufficient cause, permission or justification.

Section 211.031.1(2)(c) RSMo.

INJURIOUS BEHAVIOR OR ASSOCIATION

To prove injurious behavior or association, there must be proof of each of the following elements:

1. A child whose;
2. behavior or association is injurious to his/her welfare or to the welfare of others.

Section 211.031.1(2)(d) RSMo.

MINORS IN POSSESSION OF ALCOHOL OR TOBACCO

Under the federal definition, juveniles under the age of 17 years old in possession of alcohol or tobacco are considered status offenders (refer to age limitation definition).

Section 223(a)(12) of the Juvenile Justice and Delinquency Prevention Act (JJDPa)

CURFEW VIOLATORS

Under the federal definition, juveniles who violate curfew laws are considered status offenders (refer to age limitation definition).

Section 223(a)(12) of the Juvenile Justice and Delinquency Prevention Act (JJDPa)

DELINQUENCY OFFENSES

Under Section 211.031.1(3), RSMo delinquency offenses involve a child alleged to have violated a state law or municipal ordinance prior to attaining the age of seventeen, in which cases jurisdiction may be taken by the court of the circuit in which the child or person resides or may be found or in which the violation is alleged to have occurred; except that, the juvenile court shall not have jurisdiction over any child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, or over any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product.

Taking a Child Into Custody

Section 211.131, RSMo.

- 1) When any child found violating any law or ordinance or whose behavior, environment or associations are injurious to his welfare or to the welfare of others or who is without proper care, custody or support is taken into custody, the taking into custody is not considered an arrest.
- 2) When a child is taken into custody, the parent, legal custodian or guardian of the child shall be notified as soon as possible.
- 3) The jurisdiction of the court attaches from the time the child is taken into custody.

Continuing Jurisdiction Over A Child

Section 211.041, RSMo.

When jurisdiction over the person of a child has been acquired by the juvenile court under the provisions of this chapter in proceedings coming within the applicable provisions of section 211.031, the jurisdiction of the child may be retained for the purpose of this chapter until he has attained the age of twenty-one years, except in cases where he is committed to and received by the Division of Youth Services, unless jurisdiction has been returned to the committing court by provisions of chapter 219 RSMo, through requests of the court to the Division of Youth Services and except in any case where he/she has not paid an assessment imposed in accordance with section 211.181 or in cases where the judgment for restitution entered in accordance with section 211.185 has not been satisfied. Every child over whose person the juvenile court shall have no jurisdiction with respect to any such violation and, so long as it retains jurisdiction of the child, shall not exercise its jurisdiction in such a manner as to conflict with an other court's jurisdiction as to any such violation.

CERTIFICATION OF A JUVENILE

Section 211.071 RSMo. refers to the **certification of a juvenile**

1. If a petition alleges that child between the ages of twelve and seventeen has committed an offense which would be considered a felony if committed by an adult, the court may, upon its own motion or upon motion by the juvenile officer, the child or the child's custodian, order a hearing and may, in its discretion, dismiss the petition and such child may be transferred to the court of general jurisdiction and prosecuted under the general law; except that if a petition alleges that any child has committed an offense which would be considered first degree murder under section 565.020, RSMo, second degree murder section 565.021, RSMo, first degree assault under section 565.020, RSMo, forcible rape under section 566.030, RSMo, forcible sodomy under section 566.060, RSMo, first degree robbery under section 569.020, RSMo, or distribution of drugs under section 195.211, RSMo, or has committed two or more prior unrelated offenses which would be felonies if committed by an adult, the court shall order a hearing, and may in its discretion, dismiss the petition and transfer the child to a court a general jurisdiction for prosecution under the general law.
2. Upon apprehension and arrest, jurisdiction over the criminal offense allegedly committed by any person between seventeen and twenty-one years of age over whom the juvenile court has retained continuing jurisdiction shall automatically terminate and that offense shall be dealt with in the court of general jurisdiction as provided in section 211.041.
3. Knowing and willful age misrepresentation by a juvenile subject shall not affect any action or proceeding which occurs based upon the misrepresentation. Any evidence obtained during the period of time in which a child misrepresents his age may be used against the child and will be subject only to rules of evidence applicable in adult proceedings.
4. Written notification of a transfer hearing shall be given to the juvenile and his custodian in the same manner as provided in sections 211.101 and 211.11. The custodian may waive notice of the hearing. Notice shall contain a statement that the purpose of the hearing is to determine whether the child is a proper subject to be dealt with under the provisions of this chapter, and that if the court finds that the child is not a proper subject to be dealt with under the provisions of this chapter, the petition will be dismissed to allow for prosecution of the child under the general law.
5. The juvenile officer may consult with the office of prosecuting attorney concerning any offense for which the child could be certified as an adult under this section. The prosecuting or circuit attorney shall have access to police reports, reports of the juvenile or deputy juvenile officer, statements of witnesses and all other records or reports relating to the offense alleged to have been committed by the child. The prosecuting or circuit attorney shall have access to the disposition records of the child when the child has been adjudicated pursuant to subdivision (3) of subsection 1 of section 211.031. The prosecuting attorney shall not divulge any information regarding the child and the offense until the juvenile court at a judicial hearing has determine that the child is not a proper subject to be dealt with under the provisions of this chapter.
6. A written report shall be prepared in accordance with this chapter developing fully all available information relevant to the criteria which shall be considered by the court in determining whether the child is a proper subject to be dealt with under the provisions of this chapter and whether there are reasonable prospects of rehabilitation within the juvenile justice system. These criteria shall include by not limited to :

- 1) The seriousness of the offense alleged and whether the protection of the community requires transfer to the court of general jurisdiction;
 - 2) Whether the offense alleged involved viciousness, force and violence;
 - 3) Whether the offense alleged was against persons or property with greater weight being given to the offense against persons, especially if personal injury resulted;
 - 4) Whether the offense alleged is part of a repetitive pattern of offenses which indicates that the child may be beyond rehabilitation under the juvenile code;
 - 5) The record and history of the child, including experience with the juvenile justice system, other courts, supervision, commitments to juvenile institutions and other placements;
 - 6) The sophistication and maturity of the child as determined by consideration of his home and environmental situation, emotional condition and pattern of living;
 - 7) The age of the child;
 - 8) The program and facilities available to the juvenile court in considering disposition;
 - 9) Whether or not the child can benefit from the treatment or rehabilitative programs available to the juvenile court; and
 - 10) Racial disparity in certification.
7. If the court dismisses the petition to permit the child to be prosecuted under the general law, the court shall enter a dismissal order containing:
 - 1) Findings showing that the court had jurisdiction of the cause and of the parties;
 - 2) Findings showing that the child was represented by counsel;
 - 3) Findings showing that the hearing was held in the presence of the child and his counsel; and
 - 4) Findings showing that the reasons underlying the court's decision to transfer jurisdiction.
 8. A copy of the petition and order of the dismissal shall be sent to the prosecuting attorney.
 9. When a petition has been dismissed thereby permitting a child to be prosecuted under the general law, the jurisdiction of the juvenile court over that child is forever terminated, except as provided in subsection 10 of this section, for an act that would be a violation of a state law or municipal ordinance.
 10. If a petition has been dismissed thereby permitting a child to be prosecuted under the general law and the child is found not guilty by a court of general jurisdiction, the juvenile court shall have jurisdiction over any later offense committed by that child which would be considered a misdemeanor or felony if committed by an adult, subject to the certification provisions of this section.
 11. If the court does not dismiss the petition to permit the child to be prosecuted under the general law, it shall set a date for the hearing upon the petition as provided in section 211.171.

JUVENILE OFFENSES AT SCHOOL (SAFE SCHOOLS ACT)

SCHOOLS:

Discipline and behavior problems are the responsibility of school officials and not of law enforcement, unless a crime has been committed. Law enforcement officers need to independently determine whether matters are of a disciplinary or criminal nature.

REMOVING A JUVENILE FROM SCHOOL:

Law Enforcement Officers **SHOULD NOT** remove a juvenile from school (take into custody) without probable cause that the juvenile has committed a crime under standards applicable to adult arrests.

It is the obligation of parents or legal guardians to cause a child between the ages 7 to 16 to regularly attend school. A law enforcement officer may return a truant child to the school or release the truant child to a parent or responsible adult and forward a report to the juvenile officer.

CRIMINAL ACTS:

Criminal acts in the school setting should be investigated and handled by law enforcement in the same fashion as any other criminal investigation. Complete the investigation and forward the report to the Juvenile Office.

SAFE SCHOOLS ACT:

The Safe Schools Act appears in various sections of the Missouri Revised Statutes. The information below is from section 160.261 RSMo.

The local board of education's written discipline policy must require school administrators to report acts of violence to teachers and other school district employees with a need to know. The Act defines "need to know" as school personnel who are directly responsible for the student's education or who otherwise interact with the student on a professional basis while acting within the scope of their assigned duties. The phrase "act of violence" means the exertion of physical force by a student with the intent to do serious physical injury as defined in subdivision (6) of section 565.002 RSMo, to another person while on school property, including a school bus in service on behalf of the district, or while involved in school activities. The written policy shall at a minimum require school administrators to report, as soon as reasonably practical, to the appropriate law enforcement agency any of the following felonies, or any act which if committed by an adult would be one of the following felonies committed on school property, including but not limited to actions on any school bus in service on behalf of the district or while involved in school activities:

1. First Degree Murder under section 565.020, RSMo;

2. Second Degree Murder under section 565.021, RSMo;
3. Kidnapping under section 565.110, RSMo;
4. First Degree Assault under section 565.050, RSMo;
5. Forcible Rape under section 566.030, RSMo;
6. Forcible Sodomy under section 566.060, RSMo;
7. Burglary in the First Degree under section 569.160, RSMo;
8. Burglary in the Second Degree under section 569.170, RSMo;
9. Robbery in the First Degree under section 569.020, RSMo;
10. Distribution of Drugs under section 195.211, RSMo;
11. Distribution of Drugs to a Minor under section 195.212, RSMo;
12. Arson in the First Degree under section 569.040, RSMo;
13. Voluntary Manslaughter under section 565.024, RSMo;
14. Involuntary manslaughter under section 565.024, RSMo;
15. Second Degree Assault under section 565.060, RSMo;
16. Sexual Assault under section 566.040, RSMo;
17. Felonious Restraint under section 565.120, RSMo;
18. Property Damage in the First Degree under section 569.100;
19. The possession of a weapon under chapter 571, RSMo
20. Child molestation in the first degree pursuant to section 566.067, RSMo;
21. Deviate sexual assault pursuant to section 566.070, RSMo;
22. Sexual misconduct involving a child pursuant to section 566.083, RSMo; or
23. Sexual abuse pursuant to section 566.100, RSMo;

Note: Class A and C misdemeanor assaults in the third degree are not always required to be reported, however, all assaults with physical injuries on school property-are Class D Felonies.

TRAFFIC OFFENSES

❖ **Section 211.031.1(2)(e) RSMo --Juvenile Court Jurisdiction**

A child who is charged with an offense not classified as criminal, or with an offense not applicable only to children; **except that**, the juvenile court **shall not** have jurisdiction over any child **15 ½** years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, or any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product.

❖ **Section 211.031.1(3) RSMo.**

Involving any child who is alleged to have violated a state law or municipal ordinance, or any person who is alleged to have violated a state law or municipal ordinance prior to attaining the age of seventeen years, in which cases jurisdiction may be taken by the court of the circuit in which the child or person resides or may be found or in which the violation is alleged to have occurred; **except that**, the juvenile court **shall not** have jurisdiction over any child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, or any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product.

❖ **Section 211.033 RSMo --Detention for violation of traffic ordinances**

No person under the age of seventeen years, except those transferred to the court of general jurisdiction under the provisions of section 211.071, shall be detained in a jail or other adult detention facility as that term is defined in section 211.151. A traffic court judge may request the juvenile court to order the commitment of a person under the age of seventeen to a juvenile detention facility.

❖ **Section 302.130.1 RSMo-- Issuance of temporary instruction permits, when- requirements-duration- rule making authority**

Any person at least **15 years of age** who, except for age or lack of instruction in operating a motor vehicle, would otherwise be qualified to obtain a license pursuant to sections 302.010 to 302.340 may apply for and the director shall issue a temporary instruction permit in the applicant's immediate possession, to drive a motor vehicle of the appropriate class upon the highways for a period of twelve months, but any such person, except when operating a motorcycle or motortricycle, must be accompanied by a licensed operator for the type of motor vehicle being operated who is actually occupying a seat beside the driver for the purpose of giving instruction in driving the motor vehicle, who is at least 21 years of age, and in the case of any driver under sixteen years of age, the licensed operator occupying the seat beside the driver shall be a grandparent, parent or guardian who has a valid driver's license. Beginning January 1, 2001, an applicant for a temporary instruction permit shall successfully complete a vision test and a test of the applicant's ability to understand highway signs which regulate, warn or direct traffic and practical knowledge of the traffic laws of this state, pursuant to section 302.173. In addition, beginning January 1, 2001, no permit shall be granted pursuant to this subsection unless a parent or legal guardian gives written permission by signing the application and in so

signing, state they, or their designee as set forth in subsection 2 of this section, will provide a minimum of twenty hours of behind the wheel driving instruction.

DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL/DRUGS:

The requirement of a Miranda warning for juveniles 15 ½ and older does not apply to DWI or other non-felony traffic offenses, because the juvenile is not subject to Juvenile Court jurisdiction, Sweatt v. Dir. Of Rev., 940 S.W.2d 540, 543 (Mo. App. S.D. 1997). Failure to give a Miranda warning however, may impair the authorities' ability to use the juveniles statement in a proceeding charging a delinquent or criminal offense arising from the traffic offense.

❖ A juvenile can obtain a permit at the age of 15. If the juvenile is under the age 15 ½ and they commit a traffic offense they should be under juvenile jurisdiction. If the juvenile is 15 ½ or older and they commit a traffic offense (unless it is a felony) they should be under adult jurisdiction (Section 211.031.2(e) RSMo)

TRAFFIC OFFENSE AGE LIMITS

TYPE OF OFFENSE	15 and UNDER	15 ½ AND OLDER
Routine Traffic (Misdemeanor)	Handle as a juvenile	Handle as an adult

Non-Traffic (Misdemeanor)	Handle as a juvenile	Handle as a juvenile
All Felonies (Including Traffic)	Handle as juvenile, take fingerprints and photographs	Handle as a juvenile, take fingerprints and photographs
DWI 1 st / 2 nd Offenses	Handle as a Juvenile Court Order needed for breath, blood, urine or saliva sample, take fingerprints and photographs	Handle as an adult.
Leaving Scene of Accident (Misdemeanor)	Handle as a juvenile	Handle as an adult but release on summons to parent or guardian
Leaving Scene of Accident (Felony)	Handle as a juvenile take fingerprints and photographs	Handle as a juvenile take fingerprints and photographs

MISSOURI'S GRADUATED DRIVER LICENSE LA W

Instruction Permit	Intermediate License	Under 21 Full License
Eligible Age: 15	Eligible Age: 16 to 18	Eligible Age: 18
Written permission from parent or guardian	Must drive with instruction permit for a minimum of 6 months	Pass vision test
Pass the vision, road sign, and written tests	Parent or guardian verification of 20 hours of behind the wheel instruction	Do not need to pass the road sign, written and driving tests if already completed
Permit may only be used when accompanied by a parent, grandparent, or guardian (if the permit holder is 16 years or older, the person occupying the seat beside the driver must be at least 21 and have a valid license).	Pass the vision, road sign and written test if results are over a year old	Intermediate license cannot be suspended, revoked, or denied when applying for al full license
	Pass driving test	
	No alcohol-related offenses in last 12 months; no traffic convictions in last 6 months	No alcohol related offenses or traffic convictions within the last 12 months
	Seat belts required for driver and all passengers	
	No driving alone between 1:00 a.m. - 5:00 a.m. (except to and from a school activity, job, or an emergency as defined by the director of revenue)	
Cost: \$1.00 Valid for 12 months	Cost: \$5.00 Valid for 2 years	Cost: \$7.50 Valid for 3 years

JUVENILE INVESTIGATION

Section 211.061 RSMo. Arrested child taken before juvenile court-transfer of prosecution to juvenile court-limitations on detention of juvenile-detention hearing, notice.

When a child is taken into custody with or without a warrant for an offense, the child, together with any information concerning him and the personal property found in his possession, shall be taken immediately and directly before the juvenile court or delivered to the juvenile officer or person acting for him.

FINGERPRINTING AND PHOTOGRAPHING

Section 211.151 RSMo.

Provides that law enforcement officers must take fingerprints and photographs of a child taken into custody for offenses that would be felonies if committed by adults. No Juvenile Court approval is needed. For misdemeanors, a juvenile's fingerprints and photographs may be obtained by a juvenile court order from the judge.

All Police Departments should have on hand "**Juvenile Fingerprint Cards**", which can be obtained by contacting:

**Missouri State Highway Patrol
Criminal Records and Identification Division
P.O. Box 568, Jefferson City MO 65102**

The juvenile's fingerprints and photographs should be forwarded to the Juvenile Office, which will send the fingerprints to the Highway Patrol and maintain custody of the photograph.

All juvenile records (including fingerprints and photographs) must be kept separate from those of adults. No juvenile records held by law enforcement agencies may be released to any private individual/victim EXCEPT by court order.

** Check with your local department concerning the process of fingerprinting and photographing.*

RIGHTS OF A CHILD WHEN TAKEN INTO CUSTODY (Miranda Warning)

Section 211.059 RSMo.

1. When a child is taken into custody by a juvenile officer or law enforcement official, with or without a warrant for an offense in violation of the juvenile code or the general law which would place the child under the jurisdiction of the juvenile court pursuant to subdivision (2) or (3) of subsection 1 of section 211.031, the child shall be advised prior to question:
 - 1) That he has the right to remain silent; and
 - 2) That any statement he/she does make to anyone can be and may be used against him; and
 - 3) That he has a right to have a parent, guardian or custodian present during questioning; and
 - 4) That he/she has a right to consult with an attorney and that one will be appointed and paid for them if they cannot afford one
2. If the child indicates in any manner and at any stage of questioning pursuant to this section that he/she does not wish to be questioned further, the officer shall cease questioning.

Note that §1(3) of this statute requires a warning more complete than the Miranda decision itself requires under the Fifth Amendment in arrests and prosecutions of adults.

Section 122.05 Supreme Court Rules

Prior to in-custody interrogation, the juvenile shall be advised by the juvenile officer or by a designee trained by the juvenile officer that the juvenile has the right to remain silent, that the juvenile has the right to an attorney and if the juvenile is unable to afford an attorney that one will be provided, that whatever the juvenile says to the juvenile officer or court personnel can be used in later proceedings, that if the juvenile says to the police or persons other than the juvenile officer or court personnel may be used against the juvenile if the juvenile is prosecuted as an adult.

Comment: The purpose of this Rule 122.05 is to provide that a juvenile in custody shall be advised of certain rights and the scope of such advice. It also recognizes the limitations on the use of admissions, confessions and statements by the juvenile to the juvenile officer or court personnel.

A. (§3.5) Right to Be Taken Before the Court

Upon being taken into custody, a juvenile shall be taken immediately before the juvenile court or delivered to the juvenile officer. Section 211.061, RSMo 1994; *State v. Arbeiter*, 408 S.W.2d 26 (Mo. 1966); *State v. Pierce*, 749 S.W.2d 397 (Mo. banc 1988). In *Arbeiter*, the Supreme Court of Missouri stated that, once a sufficient reason for taking a juvenile into custody is determined, law enforcement officers are required to take the juvenile immediately and directly to the juvenile court. The juvenile court's function then becomes to determine whether sufficient grounds exist to exercise jurisdiction. The Court held that statements elicited by police interrogators from the fifteen-year-old defendant before he was taken to the juvenile authorities were inadmissible as being in violation of § 211.061. *Id.* See also *State v. Wade*, 531 S.W.2d 726 (Mo. banc 1976), where the Court held that it was reversible error for the trial court to admit a police officer's testimony concerning the oral confession of a sixteen-year-old defendant who had not been taken to the juvenile authorities before interrogation.

In *Kunkel v. State*, 501 S.W.2d 52 (Mo. 1973), the sixteen-year-old defendant committed car theft and murder and was interrogated by the police before being brought before the juvenile authorities. He was subsequently tried as an adult and pleaded guilty to the charges. The defendant argued that he had pleaded guilty after police had taken his statement, returned him to the scene of the crime, searched and seized his property, and kept him in jail overnight, all before taking him to the juvenile court "immediately and directly" as required by law. The Court, noting that the defendant voluntarily entered the guilty plea at trial with the advice of counsel and after conferring with relatives, held that defects in the juvenile proceeding were not sufficient reasons to invalidate his knowing and voluntary plea. *Id.*

In *State v. Pierce*, the Court found that the letter and spirit of §211.061 were followed when the police took the juvenile to the juvenile authorities immediately after apprehending him.

Rule 111.02 provides other procedures to be followed immediately after a juvenile has been taken into custody. For example, a reasonable effort must be made to notify the juvenile's custodian. Rule 111.02

** Check with your local circuit on video and audio taping of juveniles.*

Juvenile Rights and Waiver for Voluntary Statement
(Optional Use)

Juvenile's Name _____ Sex _____ DOB _____

Address _____

City/State/Zip _____

Home Telephone Number _____

1. You have the right to remain silent.
2. Any statement you make to anyone can and may be used against you.
3. If you do wish to talk, you have the right at any stage of questioning to stop talking and to refuse to answer any further questions.
4. You have the right to have a parent, guardian, or custodian present during questioning.
5. You have the right to consult with an attorney.
6. You have the right to have an attorney present during questioning.
7. If you are unable to afford an attorney, one will be appointed to represent you.
8. If you are prosecuted as an adult, any statement you make may be used against you in any adult proceeding.
9. If you are alleged, at any age, to have committed First Degree Murder, Second Degree Murder, First Degree Assault, Forcible Rape, Forcible Sodomy, First Degree Robbery, Distribution of Drugs, or if you have committed two or more prior unrelated offenses which would be felonies if committed by an adult, a hearing will be held to determine if you should be prosecuted as an adult.
10. If you are 12 years of age or older and are alleged to have committed an act which would be a felony if committed by an adult, a hearing may be held to determine if you should be prosecuted as an adult.

Do you understand each of these rights that I have explained to you? ☐ Yes ☐ No

I have read my rights or have had my rights read to me and I understand what my rights are. I am willing to make a statement and answer questions. I do not want a lawyer at this time. I understand and know what I am doing. No promises or threats have been made to me and no pressure or coercion of any kind has been used against me.

Do you understand the waiver of your rights as set out above? ☐ Yes ☐ No

Having these rights in mind, do you wish to talk to us now? ☐ Yes ☐ No

Juvenile

Investigating Officer/Department

Parent /Guardian/Custodian

Juvenile Officer/Deputy Juvenile Officer

Date/Time

SEARCHES

The circuit court, of which the juvenile court is a division, has authority under § 542.261 et seq., RSMo to issue search warrants. Rule 124.01 in connection with a juvenile proceeding provides that the application for a search warrant may, but need not, be made to the juvenile court.

In *New Jersey v. T.L.O.*, 469 U.S. 325 (1985), the Supreme Court held that the Fourth Amendment's prohibition on unreasonable searches and seizures applies to searches by a school official of a student who is under their authority.

The Court held that the legality of a school official's search of a student depends not on probable cause, but "simply on the reasonableness, under all the circumstance, of the search." Reasonableness, in turn, depends on a two-part inquiry: Was the search "justified at its inception," and was the search as actually conducted "reasonably related in scope to the circumstances, which justified the interference in the first place"? *Id.* at 341. Ordinarily a search of a student by a teacher or other school official is justified at its inception when "there are reasonable grounds for suspecting that the search will turn up evidence that the student has violated or is violating either the law or the rules of the school." The search is permissible in scope when "the measures adopted are reasonably related to the objectives of the search and not excessively intrusive in light of the age and sex of the student and the nature of the infraction." *Id.* at 341-42.

T.L.O. did not decide whether the reasonable suspicion standard applies to searches conducted by school officials "in conjunction with or at the behest of law enforcement agencies." 469 U.S. at 341 n.7. Courts generally apply *T.L.O.*'s reasonableness standard to searches and seizures done by school officials, even when the officials later turn over the fruits of the search to law enforcement authorities. School officials have a duty to take reasonable measures, including searches and seizures, to detect and prevent crime that might compromise student safety. See, e.g., *id.* at 385-86. On the other hand, courts have applied the probable cause test where police conduct the search at the school, e.g., *In re Thomas B.D.*, 486 S.E.2d 498, 501 (S.C.Ct. App. 1997).

CONFIDENTIALITY & RECORD KEEPING

Section 210.004, RSMo - provides that law enforcement agencies must maintain a confidential record of the date and time a child under seventeen is taken into custody for any reason and the date and time such child is released from custody.

Section 211.321.1(a), RSMo - authorizes the juvenile officer to provide information or discuss matters concerning a child, a violation of law or the case with the victim, witnesses, officials at the child's school, law enforcement officials, prosecuting attorneys, and any person or agency having or proposed to have legal or actual care, custody or control of the child. Information received may not be released to the general public, but may be released only to the persons or agencies listed in this paragraph.

Section 211.321.2, RSMo and Supreme Court Rule 122.03- requires that juvenile police records be kept separate from the adult police records. The juvenile's records shall not be open to inspection or their contents disclosed, except by of the Juvenile Court order.

- Records may be reviewed by the Missouri Compliance Monitor as part of the federal monitoring process (JJDP Act).
- ✓ *If your agency holds juveniles in secure detention (see section on "Federal Requirements" of this manual for details), the agency must keep a log of information regarding these juveniles (see section on "Comparative Factors" of this manual for the log).*

VICTIM AND WITNESS INFORMATION

- ❖ Do not release a juvenile's name as a suspect in an incident.
- ❖ Rights of victims and witnesses - Victims have the right to be present at all criminal justice proceedings at which the defendant has that right, including juvenile proceedings concerning an offense that would have been a felony if committed by an adult (section 595.209 (1) RSMo).
- ❖ Victims, have the right to confer with and to be informed by the prosecutor regarding bail hearings, guilty pleas, pleas under chapter 552, RSMo, or its successors, hearings, sentencing and probation revocation hearings and the right to be heard at such hearings, including juvenile proceedings, unless in the determination of the court the interests of justice require otherwise (section 595.209.4 RSMo).
- ❖ Victims have the right to be informed by local law enforcement agencies or the appropriate juvenile authorities, of the availability of victim compensation assistance, assistance in obtaining documentation of the victim's losses, including, but not limited to and subject to, existing law concerning protected information or closed records, access to copies of complete, unaltered, unedited investigation reports of motor vehicle, pedestrian, and other similar accidents upon request to the appropriate law enforcement agency by the victim or the victim's representative, and emergency crisis intervention services available in the community (section 595.209.5(b) RSMo.).
- ❖ Victims have the right to be informed within twenty-four hours, of any escape by such person from a municipal detention facility, county jail, a correctional facility operated by the department of corrections, mental health facility, or the division of youth services or any agency thereof, and any subsequently recapture of such person (section 595.209.5(d) RSMo).
- ❖ Victims, have the right to be informed by appropriate juvenile authorities of probation revocation hearings initiated by the juvenile authority and the right to be heard at such hearings or to offer a written statement, video or audio tape in lieu of a personal appearance, the right to be informed by the board of probation and parole of probation revocation hearings initiated by the board and of parole hearings, the right to be present at each and every phase of parole hearings and the right to be heard at probation revocation and parole hearings or to offer a written statement, video or audio tape in lieu of a personal appearance, and the right to be informed by the custodial mental health facility or agency thereof of any hearings for the release of a person committed pursuant to the provisions of chapter 552, RSMo, the right to be present at such hearings, the right to be heard at such hearings or to offer a written statement, video or audio tape in lieu of personal appearance.
- ❖ Victims and witnesses have the right, upon their written request, the right to be informed by the appropriated custodial authority, including any municipal detention facility, juvenile detention facility, county jail, correctional facility operated by the department of corrections, mental health facility, division of youth services or agency thereof if the offense would have been a felony if committed by an adult, post-conviction or commitment pursuant to the provisions of chapter 552, RSMo. (section 595.209.7 RSMo.) .

- ❖ Victims have the right to be informed of any decision by a parole board, juvenile releasing authority or circuit court presiding over releases pursuant to the provisions of chapter 552, RSMo, to release such person or any decision by the governor to commute the sentence of such person or pardon such person (section 595.209.7(e) RSMo).
- ❖ The court shall allow the victim of any offense to submit a written statement to the court. The court shall allow the victim to appear before the court personally or by counsel for the purpose of making a statement, unless the court finds that the presence of the victim would not serve justice. The statement shall relate solely to the facts of the case and any personal injuries or financial loss incurred by the victim. A member of the immediate family of the victim may appear personally or by counsel to make a statement if the victim has died or is otherwise unable to appear as a result of the offense committed by the child (Section 211.171.8 RSMo).